

भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 10th August, 1973:—

BILL No. 46 OF 1973

A Bill to provide for removal of large disparities in wages and for removal of concentration of wealth by converting big industrial and business concerns into cooperatives managed by all for all.

Be it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Removal of Disparities and Concentration of Wealth Act, 1973.

Short
title.

2. The ratio between the minimum and the maximum wages payable to employees in all industries, business or commercial concerns and in other institutions of all kinds, whether in public or in private sector, shall not be more than 1:5.

Ratio
between
the mini-
mum and
the maxi-
mum
wages.

3. All industrial and business concerns, in the private sector, with a capital, including the working capital, of rupees five lakhs or more shall be converted into cooperative societies from the date of commencement of this Act.

Conver-
sion of
private
concerns
into co-
operative
societies.

Owners of the co-operative society.

4. The owners or partners or directors, the labour and other staff of an industrial or business concern shall become the owner members of such a cooperative society.

Joint responsibility of the members of the society.

5. It will be the joint responsibility of all the members of the society to carry on the industrial or business activity of the society in an efficient and profitable manner.

All members to get salary to be fixed by the Government.

6. (1) All the Members of the society shall be paid a monthly salary to be fixed by the Government keeping in view the nature of their duties and the intelligence, skill, labour and risk involved in the job of every member of the society.

(2) The ratio between the minimum and maximum salary of the members shall not be more than 1 : 5.

Salaries to be paid out of profits.

7. The salaries of all the members of the society shall be paid solely out of the profits of the society.

Salary Reserve Fund.

8. The society shall create a Salary Reserve Fund to which shall be deposited every year a percentage of net profits to be determined by the Government keeping in view the nature of work of the society and the Fund so created shall be maintained with a nationalised bank.

Payment of dividend to members.

9. Over and above the fixed salary, the members of the society shall be paid a dividend at a percentage of their salary, to be declared by the society every year, after providing for the Salary Reserve Fund, out of the net profits of the society.

Reduction in salaries in certain cases.

10. (1) In case the society does not earn any profit or the profits available for payment of salaries are not sufficient in a particular year, the salaries of the members of the society shall continue to be paid during the next financial year of the society at a rate of 75 per cent of the fixed salary out of the Salary Reserve Fund till the society is in a position to pay the full salary.

(2) In case the society incurs a loss in any particular year, the salary of the members of the society will be further decreased by a percentage of the full salary equivalent to the percentage of loss to the average profits of the last three years.

Power to make rules.

11. The Central Government shall make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

A majority of Indian people are living below the subsistence level. They do not have even the minimum of basic necessities of life. People can be seen in various parts of the country struggling for their survival. Apart from industrial and agricultural backwardness of the country, the huge disparity in wages as also the concentration of wealth in the hands of a few have been primarily responsible for pathetic conditions of the majority of our people. It is of utmost necessity that this disparity in wages should be reduced and the concentration of wealth be ended by statutory measures. The proposed Bill seeks to achieve this purpose by converting all industrial and business units in the private sector, with a capital of five lakh rupees or more into co-operative societies. It will put an end to the ownership of a few and open an era of collective ownership of industry and trade. However, enough incentive has been left for promotion of small scale industries by individuals.

NEW DELHI;

K. LAKKAPPA.

The 25th April, 1973.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The delegation of power is of a normal character.

BILL No. 54 OF 1973

A Bill to provide for the establishment of Civil Liberties Commissions to investigate violation of legality and fundamental personal freedoms guaranteed by the Constitution.

Enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Civil Liberties Commissions Act, 1973.

Short title
and com-
mence-
ment.

(2) It shall come into force—

(i) in the Union territories within a period of three months from the date on which the Bill receives the assent of the President, and

(ii) in the States on such dates as the State Governments concerned may, by notification in the Official Gazette, appoint.

Establishment and Constitution of Civil Liberties Commissions.

2. (1) There shall be established in every State and Union territory a Civil Liberties Commission, hereinafter referred to as the Commission, consisting of not more than three members.

(2) The Commissions shall consist of former Judges of the High Courts or of Supreme Court or persons who are qualified to be appointed Judges of the Supreme Court or a High Court.

Mode of appointment, terms of office and other conditions of service of members of the Commissions.

3. (1) The appointment of the members of the Commissions shall be made by the respective State Governments in consultation with the Chief Justice of the High Court of the State, and in the case of Union territories, by the Central Government in consultation with the Chief Justice of the Supreme Court.

(2) The term of office of the members of the Commissions shall be three years.

(3) The members of the Commissions shall not be eligible for re-appointment.

(4) The total salary, emoluments and amenities of a member of the Commission shall not exceed one thousand and five hundred rupees per month.

Functions and powers of the Commissions.

4. (1) It shall be the duty of the Commissions to collect information about the police procedures and administration of justice and take steps to ensure protection of citizens' personal freedoms.

(2) The Commissions shall have the power to visit the departments concerned with the administration of justice and criminal law and protection of civil liberties, ask for papers and files and take such other action as may be necessary for the proper execution of their duty.

(3) The Commissions shall have the power in appropriate cases to help the aggrieved citizens in the matter of securing enforcement of their rights in courts of law.

(4) The Commissions shall be entitled to suggest corrective action by way of legislative amendments or administrative reform or executive action either in their annual reports or through interim reports specially drawn up for the purpose.

(5) The Commission shall submit annual reports for each calendar year to the Legislature of the State concerned, and in the case of Union territories to the two Houses of Parliament before the 31st March of the subsequent year.

Staff of Commissions.

5. The Commissions shall be provided by the respective Government with full-time expert staff, including personnel with legal training and experience of the functioning of police, jail and law departments.

Citizens to be entitled to place grievances before the Commissions.

6. Every citizen, resident of the State or Union territory, shall be entitled to place his grievances before the respective Commission.

Power to make rules.

7. The Central Government and the State Governments may frame rules for the transaction of business by the Commission functioning in their respective jurisdictions.

STATEMENT OF OBJECTS AND REASONS

Despite our constitutional guarantees, including the citizen's right to move the Supreme Court for the enforcement of fundamental rights under article 32 of the Constitution, instances daily multiply of the breach of legality and harassment of common citizens by the police and magistracy.

There is, in the first place, a lack of awareness on the part of the oppressed people of their rights. Secondly, because of their poor financial condition they cannot seek effective legal remedy, and so the tyranny of the executive remains unchecked.

The common citizens, especially the Scheduled Castes and Scheduled Tribes, suffer from numerous disabilities, and the law affords very little protection to these hapless people. They are often prevented from exercising their voting rights. Discrimination is also practised against the minorities, openly or in subtle ways, which it should be the bounden duty of the Government to prevent.

This Bill seeks to establish Civil Liberties Commissions in the States and Union territories in order to fill an important lacuna in our legal system, administration of our criminal law and enforcement of citizens' fundamental rights.

These Commissions will be charged with the task of systematically reviewing the law and practice in the various spheres affecting civil liberties. Citizens shall be entitled to bring their grievances to the attention of these Commissions so that it would become a storehouse of information. They would be empowered to do what the Law Commission is not entitled to do, that is to say, to go to the branches connected with the administration of Criminal Law, that is, Departments of Police, Home, Law and Jails and learn at first hand what is their practice by examination of the files. Failure to provide for on the spot investigation is often destructive of Government responsibility towards the people. While the Legislatures sometimes fulfil an important function in this matter, they cannot give as much attention to this problem as a Civil Liberties Commission fully empowered to investigate these matters would be able to do. People at the top in the Departments whose work has bearing on civil liberties have very little personal experience of how the Police and the Magistracy are functioning at the lower levels. Even the knowledge of some of the top-flight lawyers who practise in the Supreme Court and High Courts is not based on practical experience.

Since the Civil Liberties Commission will be provided with full time expert staff, including research assistants, to report from first hand investigation on the protection of civil liberties, its report will be a great help to the Legislatures in solving the grievances of the people and

suggesting corrective action by way of legislative amendments, or administrative reform or executive action.

The setting up of the Civil Liberties Commissions will make the fundamental rights a reality for our common people.

NEW DELHI;

MADHU LIMAYE.

The 15th June, 1973.

FINANCIAL MEMORANDUM

Clauses 2(1), 3(4) and 5 of the Bill provide for establishment of Civil Liberties Commissions and payment of emoluments to the members and staff of the Commissions. It will be the responsibility of the State Governments to pay the emoluments to the members of the Civil Liberties Commissions in their respective States.

As far as the Union territories are concerned, the recurring expenditure will be less than two lakh rupees per year. Non-recurring expenditure of about fifty thousand rupees will also be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central and State Governments to frame rules for the transaction of business by the Civil Liberties Commissions.

The delegation of power is of a normal character and entirely in consonance with the provisions of the Constitution.

BILL No. 51 OF 1973

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1973.

Short
title.

2. For article 16 of the Constitution, the following article shall be substituted, namely:—

Substi-
tution of
article 16.

“16. (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State, subject to the principles set out in clause (3) of this article.

Protec-
tion
for back-
ward class
and
region.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against, in respect of any employment or office under the State except on the basis set out in clause (3) of this article.

(3) (a) In making appointments to services, including Class I, II, III, IV, and posts, gazetted or non-gazetted, under the Union or a State, 60 per cent of these appointments shall be made from among

the backward class of citizens on the basis of competition confined to the members of this class and the remaining 40 percent of the posts shall be filled up on the basis of competition open to all, including the members of the backward class:

Provided that in all future appointments to these posts and services under the Union or the State, the share of the Scheduled Castes and Scheduled Tribes shall be at least proportionate to their percentage in the population of the Union or of a State, as the case may be, at the previous census;

(b) for the purposes of this article the words "backward class" shall include—

(i) Scheduled Castes and Scheduled Tribes;

(ii) male members of the non-dwija castes of the Hindu society;

(iii) Muslims, Christians and other religious minorities and, especially, their backward sections; and

(iv) women:

Provided that such members of categories (i), (ii), (iii) and (iv) as own a property of rupees five lakh or more and/or have an annual income of rupees twenty-five thousand or more shall be excluded from the term "backward class";

(c) the provisions in sub-clauses (a) and (b) shall remain in operation for a period of forty years from the date of coming into force of these provisions;

(d) nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union Territory, any requirement as to residence within that State or a generally recognised backward region within that State prior to such employment or appointment;

(e) the provision in sub-clause (d) above shall remain in operation for a period of twenty years from the date of coming into force of this provision.

(f) nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination;

(g) failure to implement clause (3) of this article shall be punishable by law to be passed by Parliament in this respect."

Amend-
ment of
article
320.

3. In article 320 of the Constitution, in clause (4), for the words and figures "(4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335", the words and figures "(3) of article 16 may be made" shall be substituted.

Omission
of article
335.

4. Article 335 of the Constitution shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The struggle against inequality in the caste-ridden India must have a social dimension also. The inequitable feudal-capitalist order can be overthrown successfully only if the struggle for economic equality is coupled with the struggle for social equality.

The concepts of equality and equal opportunity are not synonymous. In a society characterised by a hierarchical structure based on birth, the principle of equal opportunity cannot produce an egalitarian society. The established conventional notions about merit and ability must result in a denial of opportunities for backward castes, Harijans adivasis, women, etc. The principle of preferential opportunities and reservation alone will ensure that the backward sections catch up with the advanced ones in a reasonable period of time.

This Bill seeks to recast article 16 of the Constitution in order to achieve more effectively the objective of social equality. It defines backwardness primarily in social terms, but the economic proviso is a guarantee that the special opportunities for the backward sections will not be exploited by the rich and the influential from among these sections.

This constitutional amendment also provides special reservation for the Harijans and adivasis which are among the most suppressed sections of our society, as also reservation for backward regions within a State. Since the existing article 16 does not take into account the fact of regional backwardness and disparity, it makes it difficult for the State to satisfy legitimate regional aspirations without breaking up the States. The present arrangement thus puts a premium on regional separatism. This amendment seeks to remove this built-in bias in favour of disunity.

NEW DELHI;

MADHU LIMAYE.

The 15th June, 1973.

BILL No. 49 OF 1973

A Bill to provide for the right to trace one's lineage from the side of one's mother.

Be it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Mother's Lineage Act, 1973.

(2) It shall come into force at once.

2. Notwithstanding anything contained in any law for the time being in force throughout the territory of India, it shall be unlawful for any Government, authority or person, to compel any other person who is a citizen of India to fill and sign any form, statutory or non-statutory, official or non-official, which provides for establishing a person's lineage only through his or her father or to prohibit him or her to write his or her mother's name instead.

3. After the coming into force of this Act, it shall be lawful for any citizen of India to refuse to fill a form requiring him or her to give his or her father's name or her husband's name and which does not give him or her the option to give the name of his or her mother.

4. It shall be a grave misdemeanour under this Act for any person to describe any citizen of India as "bastard".

Short
title
and com-
mence-
ment.
Establish-
ment of
lineage.

Right to
refuse to
fill forms
in certain
cases.

Misdeme-
anour
under the
Act.

5. (1) Whosoever compels any citizen of India to act in a manner contrary to the provisions of sections 2 and 3 of this Act or discriminates against any citizen on the ground of the citizen's refusal to act in a manner which is against the provisions of these sections, shall be punishable with rigorous imprisonment for a term which may extend to one month and fine of five hundred rupees or one month's imprisonment in lieu thereof. Penalties.

(2) The misdemeanour mentioned in section 4 shall be punishable with rigorous imprisonment for a term which may extend to one year and a fine of five hundred rupees or one month's imprisonment in lieu thereof.

STATEMENT OF OBJECTS AND REASONS

The seven revolutions that are currently moulding the destiny of mankind are inter-related revolutions. Important among these revolutions is the transformation of the man-woman relationship and the establishment of equality between the two sexes. In order to make the man-woman equality a reality the human mind will have to liberate itself from many obsolete concepts which are associated with the possessive, property-conscious, male-dominated society.

The concept of "illegitimacy" and the practice of tracing one's lineage solely from the father's side is one such reactionary and fossilized concept. The reactionary attitudes which form the unspelt basis of the present official and non-official practices and decisions of the courts will have to be discarded completely if the egalitarian principles of the Constitution are to inform and elevate our social life.

In India there has been going on for the last three thousand years a conflict between the liberal attitude on the one hand and the orthodox standpoint on the other. The story of the sage Jabali is well known. This "illegitimate" son of his mother when questioned about the identity of his father pleaded ignorance, went to his mother and when informed that she could not say definitely who his father was, came back and gave a truthful account of what his mother had told him. For his fearless and truthful utterance the people of ancient India not only honoured him but canonised him as a sage. The present reactionary attitudes, therefore, are contrary to the liberal spirit to which the legend of Jabali bears witness.

The life of thousands of people and their mothers is being made miserable because of the fossilized attitudes that prevail in our society today. This Bill seeks to remove the stigma of "illegitimacy" from those thousands of unfortunate people, "illegitimate" sons and daughters of their mothers, who are being persecuted by society for no fault of theirs.

NEW DELHI;

MADHU LIMAYE.

The 15th June, 1973.

BILL NO. 53 OF 1973

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1973.
2. In article 37 of the Constitution, after the words "this Part", the words "except those contained in articles 45 and 47" shall be inserted.
3. In article 45 of the Constitution, for the words "The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution," the words "It shall be the duty of the State to provide, with effect from 26th January, 1975," shall be substituted.

Short
title.

Amend-
ment of
article 37
Amend-
ment of
article
45.

Substitu-
tion of
article 47.

Duty of
the State
to ensure
mini-
mum
standard
of nutri-
tion and
to pre-
vent un-
timely
deaths
due to
mal-nu-
trition,
etc.

4. For article 47 of the Constitution, the following article shall be substituted, namely:—

“47. It shall be the duty of the State to ensure to every citizen a minimum standard of nutrition and, in particular, to prevent untimely deaths resulting from mal-nutrition, under-nourishment or starvation.”.

STATEMENT OF OBJECTS AND REASONS

The late Gopal Krishna Gokhale sponsored a resolution and a Bill on free and compulsory primary education by stages as far back as the first decade of this century. Since then provision of free schooling for children has been a principal objective of the freedom movement in India. This cherished idea of our independence movement found expression in article 45 of the Constitution relating to Directive Principles of State Policy. The Constitution-makers had been expressed the hope that the ideal of free and compulsory schooling for children will be realized within 10 years after the commencement of the Constitution. It is now more than 23 years after the Constitution came into force and yet, in large parts of the country, free and compulsory primary education remains an unrealized dream. The State Governments are displaying utter indifference and callousness in implementing a principle basic to all civilized communities. In India's biggest city, Calcutta, nearly 50 per cent of the children below the age of 14 are going without any schooling whatsoever and the State and the Municipal Corporation have so far done nothing in the matter. In other areas too, the position is far from being satisfactory.

Unless the citizens of this country are given legal and constitutional remedy and unless the courts are empowered to enforce free and compulsory education and performance by the State of its duty to feed the people, these ideals will never be realised. In large parts of the country, hunger and starvation is taking a heavy toll of human life. In scarcity areas the distress is very acute. The authorities adopt a callous attitude towards these cases. To these hapless people, the slogan *garibi hatao* is a mockery.

This Bill, therefore, seeks to fix this responsibility squarely on the State and make provisions relating to primary education and the basic necessity of human life, namely, minimum nutrition, justiciable.

NEW DELHI;

MADHU LIMAYE.

The 15th June, 1973.

FINANCIAL MEMORANDUM

The amount involved in the proposed measure would be large and, for obvious reasons, cannot be calculated with any precision at this stage. But it would be in the neighbourhood of a few billion rupees for enforcement of free primary education provided for in clause 3 of the Bill.

S. L. SHAKDHER,
Secretary.